

REMARKS

Claims 1-21 are pending in the application.

Claims 1-21 have been rejected.

Claim 1 has been amended.

Reconsideration of the claims is respectfully requested.

I. CLAIM REJECTIONS -- 35 U.S.C. § 102

Claims 1-7 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0114305 to *Oyama, et al.* (hereinafter “Oyama”). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131, p. 2100-76 (8th ed., rev. 4, October 2005) (*citing In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. *Id.* (*citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)).

One way in which Oyama differs from the features of claim 1 is that Oyama’s quality of service (QoS) profile does not appear to *correspond* to any mobile station. Rather, Oyama teaches a “pre-established” signaling QoS profile that appears to have no particular association with any

mobile station. No QoS profile *corresponding to the mobile station* appears to be ever received in Oyama. As such, Oyama does not teach the claim limitations *identically*, and so cannot anticipate claim 1 or its dependents.

Claim 1 is amended above to further distinguish that the received authorization message and quality-of-service profile corresponds to the mobile station according a level of service authorized for the mobile station, as described, *e.g.*, in paragraphs 0024-2027. However, it is clear that even the unamended claim distinguishes over Oyama.

Accordingly, the Applicants respectfully request that the Examiner withdraw the § 102 rejection with respect to these claims.

II. CLAIM REJECTIONS -- 35 U.S.C. § 103

Claims 8-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0137944 to *Medvinsky* (hereinafter “*Medvinsky*”) in view of Oyama. The Applicants respectfully traverse the rejection.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4, October 2005). Absent such a prima facie case, the applicants are under no obligation to produce evidence of nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants' disclosure. *Id.*

Claims 8 and 15 both require that the QoS controller receives from the authorization server an authorization message and quality-of-service profile corresponding to the mobile station. The Examiner concedes that Medvinsky does not teach a QoS profile corresponding to the mobile station.

As described above with regard to Claim 1, and incorporated here by reference, Oyama also does not teach a QoS profile corresponding to the mobile station. Rather, Oyama teaches a generic “pre-established signaling quality of service profile” that is “pre-established and configured in various nodes in an access network” (see abstract and para. 0043). As such, Oyama’s “pre-established” QoS profile does not correspond to the mobile station, as claimed.

As each independent claim includes this limitation, all obviousness rejections are traversed.

Accordingly, the Applicants respectfully request that the Examiner withdraw the § 103 rejection with respect to these claims.

CONCLUSION

As a result of the foregoing, the Applicants assert that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@munckcarter.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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